

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION NO. 22074 of 2017**

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SHAILESHKUMAR NAGJIBHAI PANSURIYA....Petitioner(s)

Versus

ELECTION COMMISSION OF INDIA & 2....Respondent(s)

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Appearance:

MR BHARAT T RAO, ADVOCATE for the Petitioner(s) No. 1

ADVANCE COPY SERVED TO GP/PP for the Respondent(s) No. 2

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CORAM: **HONOURABLE MR.JUSTICE AKIL KURESHI**
and
HONOURABLE MR.JUSTICE A.Y. KOGJE

Date : 07/12/2017

ORAL ORDER

(PER : HONOURABLE MR.JUSTICE AKIL KURESHI)

Having heard learned counsel Shri B.T. Rao for the petitioner, we gather that in the ensuing State Assembly elections, the Election Commission would deploy sufficient number of EVM machines for voting with VVPAT and paper trail of the votes cast by all voters. We are informed that a paper trail of each vote cast shall be maintained by the Election Commission. Our attention was drawn to the press release by the Election Commission of India dated 20.5.2017, in which following declarations were made :

“7. To understand the concerns of political parties, Commission convened an all-party meeting on 12th May. A press statement was also issued by ECI the same day to the following effects.

(i) The Commission stated before political parties that all future election will be mandatorily held with VVPATs. The Commission firmly believes that use of VVPAT machines along with the EVMs in all polling stations, in all future elections, will bring utmost transparency and credibility in the EVM-based voting system. This will enable each voter to see for himself in VVPAT whether his or her vote has gone to the right candidate. After press of button on BU, name and symbol the concerned candidate will appear on the screen of VVPAT machine and paper slip bearing name and symbol will be dropped in a sealed box connected with VVPAT. These slips will serve as audit trail of the vote caste by voter on EVM. Audit trail will enhance confidence and trust of voters. Use of VVPATs with EVMs must conclusively put to rest all misinformed doubts and misgivings regarding EVMs. It will also be a matter of pride that India will become the first country to deploy 100% VVPATs or paper trail in the world, an element that was missing in many countries including Netherland, Germany and Ireland.

Funds for procuring the required VVPATs for 100% deployment have already been sanctioned and production is to begin in August, 2017 and will be completed by September, 2018.

(ii) It was also stated that the Commission has also taken into account suggestions made by various political parties regarding counting of VVPAT slips. The Commission will count VVPAT slips up to a definite percentage, which will be determined by the Commission. The ECI will shortly evolve an appropriate framework in this regard.”

Shri Rao stated that despite the above declaration that Election Commission will evolve a framework for counting VVPAT slips of a definite percentage, so far no such framework has

been set up. The petitioner's prayer in this regard is that the Election Commission should count 100% of the VVPAT slips manually along with counting of votes cast in EVMs.

Even though we are not inclined to accept the petitioner's suggestion of full manual counting of votes, to inquire from the Election Commission, whether any framework for sample counting of VVPAT slips along with EVM votes on random basis has been set up or not, let there be notice returnable on 12.12.2017.

Learned advocate Shri Sahil Shah waived service of notice for respondent no.2. Direct service today to respondent no.1 through e-mail is permitted. It is not necessary to serve respondent no.3.

(AKIL KURESHI, J.)

(A.Y. KOGJE, J.)

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